

FILED

FEB 26 2014

1 COMPLAINT BY PRISONER UNDER THE CIVIL RIGHTS ACT 42 U.S.C. CR 1983
 2 LENZO Sedmster CLERK, W. WIEKING
 3 H-64914, CDCR# NORTHERN DISTRICT COURT OF CALIFORNIA
 4 CSP-Sacramento, AI, PO Box 290066, Redwood, CA. 95671

(PR)

UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

KAW

CV 14 0862

11 LENZO Sedmster	> CASE NO.
12 Plaintiff	>>>
13 VS.	> COMPLAINT FOR DECLARATIO
14 Will Baptista, in his official capacity	> AND INJUNCTIVE RELIEF UNDER
15 as correctional officer of:	> THE CIVIL RIGHTS ACT 42 U.S.C.
16 Pelican Bay State Prison	> § 1983 AND DAMAGES
17 California Department of Corrections (CDCR)	>
18 And in his individual capacity	>
19	>
20 Defendant	>

I. JURISDICTION & VENUE

21 1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the
 22 deprivation under color of state law, of rights secured by the Constitution of
 23 United States. The Courts has jurisdiction under 28 U.S.C. Section 1331
 24 and 1333(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section
 25 2201 and 2202. Plaintiff claims for injunctive relief are authorized by U.S.C.
 26 Section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.

27

28 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER CIVIL RIGHTS ACT 1983 EDAMAGES -1-

1 2. The Northern District of California is an appropriate venue under 28 U.S.C.
2 Section 1331(b)(2) because it is where the event giving rise to this claim occurred.
3

4 II. PLAINTIFF

5 3. Plaintiff Lenzo Seawster is and was at all times mentioned herein a
6 Prisoner of the State of California in the custody of the California
7 Department of Corrections and Rehabilitation. He is currently confined in
8 CSP-Sacramento in Fresno California.

9
10 III. DEFENDANT

11 4. Defendant Will Baptista is a correctional officer of the California
12 Department of Corrections and Rehabilitation who at all times mentioned
13 in this complaint held the rank of Corrections Officer and was assigned to
14 Pelican Bay State Prison.

15
16 IV. FACTS

17 5. While housed at the Psychiatric Services Unit (PSU) Pelican Bay State Prison
18 On September 3rd 2012 at approximately 8:30 PM Plaintiff Lenzo Seawster
19 received his medication from Medication Nurse Lenhart and then asked her
20 if she could also take his blood pressure, because had been feeling light headed
21 and it may be due to his hypertension. Nurse Lenhart said that she
22 would after she finished with her Med. Pass.

23
24 6. Approximately (5) minutes later defendant Baptista approached
25 Plaintiff Seawster's cell door and asked him if he wanted to get his blood pressure
26 checked. Plaintiff replied yes. Defendant Baptista then ordered him to turn
27 around and submit to handcuffs

1 Plaintiff complied. Defendant Baptista placed him in hand cuffs via
 2 the tray slot then opened the cell door and ordered Plaintiff Lenzo Seamster
 3 to get on his knees and submit to leg restraints which was out of the
 4 ordinary being that Plaintiff Lenzo Seamster has been cleared by
 5 the institutional classification committee (ICC) of leg restraints.

6
 7 To Plaintiff explained to defendant Will Baptista that he had been cleared
 8 of leg restraints by ICC. Defendant Will Baptista responded by saying "I don't
 9 care what ICC cleared you of ICC is not here in here and if you want your
 10 blood pressure checked you have to submit to leg restraints."

11
 12 Plaintiff Lenzo Seamster replied "I have not done anything wrong why do
 13 I need shackles?" Defendant Baptista responded "do you want your blood pressure
 14 checked or not?" Plaintiff replied yes and got on his knees and submitted to the
 15 leg restraints.

16
 17 9. Now to explain ICC position when concerning leg restraints: All
 18 Prisoners must submit to leg restraints until they are seen by ICC and
 19 cleared. Basically ICC has to check the central file to see have the prisoner
 20 been assaultive or have an extensive history of assaultive behavior.

21
 22 10. Now if the prisoner have been currently assaultive or have an extensive
 23 history of assaultive behavior then ICC might elect to keep the prisoner in
 24 leg restraints and place a sign above the prisoner's cell door to confirm ICC
 25 decision.

26
 27 11. Now Plaintiff Lenzo Seamster is a NON-Violent prisoner and have never in
 28 COMPLAINT FOR DECLARATORY & INJUNCTIVE RELIEF UNDER THE CIVIL RIGHTS ACT 42 USC 1983 & DAMAGES

1 the 19 years of his incarceration or his incarceration attacked a correctional officer
 2 or another prisoner. therefore ICC have never in the 19 years of Plaintiff Lenzo
 3 Seamster's elected to place him on leg restraints.

4

5 12. Now as defendant Will Baptista escorted Plaintiff Lenzo Seamster down the
 6 stairs not only was he squeezing his arm very tight he was also walking him very
 7 fast which was very painful due to the leg restraints and it seems as though he
 8 was trying to trip Plaintiff Lenzo Seamster down the stairs.

9

10 13. Plaintiff Lenzo Seamster did not respond to defendant Will Baptista's
 11 aggression by saying anything or making any sudden moves. because defendant
 12 Will Baptista is well known for brutally attacking prisoners/patients in the
 13 Psychiatric Services unit (PSU) while they are in handcuffs and shackles.

14

15 14. Now once down the stairs Plaintiff was escorted into the Sallyport where
 16 Nurse Lenhart was waiting to take his blood pressure. Now as Plaintiff sit down
 17 to get his blood pressure taken wondering why defendant Will Baptista was
 18 being so aggressive with him. because they had had no problems at all up until
 19 that point.

20

21 15. Now after Nurse Lenhart took Plaintiff Lenzo Seamster's blood pressure
 22 defendant Will Baptista escorted Plaintiff back up the stairs to his cell and told
 23 him to face the wall Plaintiff complied which is when defendant Will Baptista
 24 slammed Plaintiff Lenzo Seamster's head into the wall briefly knocking
 25 him unconscious and bringing him to his knees. which caused immediate
 26 swelling on the forehead of Plaintiff Lenzo Seamster.

27 16. Defendant Will Baptista then ordered Plaintiff Lenzo Seamster to crawl

28

1 ON his knees into his cell. Once inside defendant Will Baptista instructed
2 Plaintiff Lenzo Seamus "not to move & Muscle if he knew what was good for
3 him." Plaintiff Lenzo Seamus complied. Defendant Will Baptista then bent
4 down and removed the leg restraints, and then backed out of the cell as the
5 cell door shut. Plaintiff Lenzo Seamus stood up. defendant Will Baptista
6 then ordered Plaintiff to stick his arms through the tray slot so that "he"
7 defendant Will Baptista could remove the handcuffs.

8
9 17. Now once the handcuffs were removed Plaintiff Lenzo Seamus turned
10 around feeling the lump on his forehead getting bigger told defendant Will
11 Baptista that he needs Medical attention defendant Will Baptista then smiled
12 and replied "you jailhouse lawyers should learn to mind your own business,"
13 And then walked away from Plaintiff's Lenzo Seamus's cell door.

14
15 18. Plaintiff Lenzo Seamus then began to kick the cell door as defendant
16 Will Baptista was walking away, screaming that he needs medical attention
17 to no avail.

18
19 19. Plaintiff Lenzo Seamus then wet a towel with cold water layed on
20 his bunk. and placed it on his forehead. realizing that he had just brutally
21 attacked because he had been helping several prisoners file grievances and
22 do legal work on defendant Will Baptista.

23
24 20. ALSO during this incident there was another correctional officer with
25 defendant Will Baptista. Nevertheless the Plaintiff was so focused on
26 defendant Will Baptista because of his expression that he can not remember who the
27 other correctional officer was.

1 21. Now on the morning of September 11th 2012 Plaintiff Lenzo
2 Seamster had an appointment with his Psychologist Dr. Patterson as Plaintiff
3 entered Dr. Patterson's office Dr. Patterson notice the swelling on the
4 Plaintiff's forehead and asked him what happen. The Plaintiff told Dr. Patterson
5 that he had been attacked by defendant Will Baptista for helping other
6 Prisoner's file grievances/complaints against him for brutally attacking
7 them. Plaintiff Lenzo Seamster then told Dr. Patterson that he needs
8 Medical attention and that he would like to file a complaint on defendant
9 Will Baptista for excessive use of force.

10
11 22. Dr. Patterson then called Dr. Paul Hofferker on the Phone. Dr. Paul
12 Hofferker was just a couple doors down in another interview room so he
13 came right over. Dr. Patterson was fairly new to the facility which is why
14 he called Dr. Paul Hofferker to assist him in this matter.

15
16 23. Now Dr. Patterson and the Plaintiff begun to explain to Dr. Paul Hofferker
17 the details of the situation, and Dr. Paul Hofferker replied "I'm very familiar
18 with CB Baptista and his brutality toward (PSU) Inmates there have been
19 numerous situation involving this same correctional officer.

20
21 24. Dr. Paul Hofferker then explained to Dr. Patterson what need to be done to
22 get the complaint filed and report the incident.

23
24 25. Dr. Patterson then exited the office and went to go report the incident to
25 defendant Will Baptista's supervisor's he afterwards returned to the office where
26 Plaintiff Lenzo Seamster waited with a complaint form accompanied by
27 Nurse Betty Vigil, and Marissa Gramfi LPT.

1 26. Plaintiff Lenzo Seamster filed a complaint against defendant Will Baptista
2 for excessive use of force. and Nurse Betty Vigil conducted a 7219 injury
3 report in assistance with M. Ervamfi.

4

5 27. As Plaintiff Lenzo Seamster completed the complaint against defendant
6 Will Baptista Psych-Tech Rita Snyder was passing by Plaintiff Call Psych-Tech
7 Rita Snyder to the interview room and notified her that he might miss group
8 therapy today due to being attacked by defendant Will Baptista. Psych-Tech
9 Rita Snyder then asked the Plaintiff " did % Baptista cause that injury to your
10 forehead?" Plaintiff Lenzo Seamster replied yes he did. Psych-Tech Rita
11 Snyder responded by filing an incident report with defendant Will Baptista's
12 supervisor's.

13

14 28. It was during this time that Plaintiff Lenzo Seamster learned that
15 defendant Will Baptista after brutally attacking (him/The Plaintiff) did not
16 even file an incident report which is Protocol. all correctional officers must
17 file an incident report in such case's

18

19 The Second line of line 28 Should read , defendant Will Baptista after brutally
20 attacking (him/The Plaintiff) defendant Will Baptista did not even file an incident
21 report

22

23 29. Now once defendant Will Baptista returned back to the facility from his
24 regular days off and learned that Plaintiff Lenzo Seamster filed a complaint on
25 him for excessive use of force he immediately retaliated by filing a fraudulent
26 rule violation report on Plaintiff Lenzo Seamster for the specific acts:
27 Threat of Force/violence against A Public official Log# P12-09-0005 Dated:

28

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER THE CIVIL RIGHTS ACT 42 U.S.C. 1983 & DAMAGES

1 9-6-2012 Plaintiff Lenzo Seamster then asked to speak with Dr. Patterson
2 and Dr. Paul Hofferker so that he might explain what had occurred.
3

4 30. Upon the arrival of Dr. Patterson and Dr. Paul Hofferker Plaintiff Lenzo
5 Seamster told them about the retaliation which also consist of defendant
6 Will Baptista refusing to feed the Plaintiff Dr. Paul Hofferker suggested that
7 Dr. Patterson place Plaintiff Lenzo Seamster on suicide watch to remove him
8 from the situation, because Dr. Paul Hofferker felt that Plaintiff Lenzo
9 Seamster's life was in danger not only endangered due to defendant Will
10 Baptista, but also due to Seamster's suicidal history, defendant Will
11 Baptista pressure on the Plaintiff who has mental health issues was
12 most certainly enough to set him off, Plus defendant Will Baptista had no
13 excess to Plaintiff Lenzo Seamster while on suicide watch, nevertheless
14 on 9-23-12 Plaintiff Lenzo Seamster attempted suicide by hanging himself.
15

16 31. Form Suicide watch doctors changed Plaintiff Seamster's level of
17 care in order to get him to another yard and eventually out of the facility
18 once the Plaintiff recovered from the suicide attempt wherein Plaintiff
19 sustained very serious injuries from the attempt.
20

21 32. A few months later Plaintiff Lenzo Seamster was transferred from
22 Pelican Bay State Prison to the California State Prison - Sacramento for
23 his safety.
24

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

27 33. Plaintiff Lenzo Sedmster used the Prisoner grievance procedure
28

1 available at Pelican Bay State Prison to try and solve the problem. On
2 September 4th 2012 Plaintiff Lenzo Seamster Presented the facts relating
3 to this complaint. On November 14th 2012 Plaintiff Lenzo Seamster
4 was sent a response from the OFFICE OF APPEALS which is the highest
5 and final level of review saying that the grievance has been denied.
6 Grievance/Appeal log # PBSP-12-02815

7

8 VI. CLAIM FOR RELIEF

9

10 (For violations of the Eighth Amendment under color of State law, Section 1983)

11

12 34. Plaintiff reallege and incorporate herein by reference each of the allegations
13 contained in the preceding Paragraphs 1-33 of this complaint.

14

15 35. The use's of excessive force violated Plaintiff Seamster's rights and
16 constituted cruel and unusual punishment under the eighth amendment to
17 the United States Constitution.

18

19 36. As a direct and proximate result of defendant Will Baptista's conduct in
20 violation of Plaintiff's eighth amendment rights as set forth above, Plaintiff
21 has suffered serious harm, pain, and emotional distress.

22

23 37. Defendant Will Baptista's excessive use's of force against Plaintiff
24 Seamster was maliciously and sadistically carried out for the very purpose
25 of causing Plaintiff Lenzo Seamster harm.

26

27 38. Defendant's actions were motivated by evil motive and intent with a disregard
28 for Plaintiff's health and safety and federally protected rights.

1
2
3 VII. PRAYER FOR RELIEF
4
5

6 WHEREFORE Plaintiff respectfully prays that this court enter judgement granting
7 Plaintiff:

8
9 39. A declaration that the acts and omissions described herein violated Plaintiff's
10 rights under the Constitution and laws of the United States.

11
12 40. A Preliminary and Permanent injunction ordering defendant Will ~~Baptista~~
13 to anger management and random drug testing, and the dismissal of the
14 Retaliatory rule violation report log # P12-09-~~xxxx~~ for the specific act of:
15 Threat of Force/Violence against a Public Official dated 9-6-2012

16 41. Compensatory damages in the amount of \$ 40,000 against defendant.

17 42. Punitive damages in the amount of \$ 40,000 against defendant.

18 43. A jury trial on all issues triable by jury proper and equitable

19
20 44. Any additional relief this court deems just

21
22 Date: 1-16-14

23
24 Respectfully Submitted

25 LENZO Seamster H-64914

26 CSP - Sacramento

27 PO Box 290066

28 Represd CA, 95671

1 **VERIFICATION**

2
3 I have read the foregoing complaint and hereby verify that the matters
4 alleged therein are true, except as to matters alleged on information
5 and belief and as to those I believe them to be true.

6 I certify under Penalty of Perjury that the foregoing is true and correct.
7

8 executed at Redwood, California on
9 Lenzo Seamster

10 Lenzo Seamster

11
12 DEMAND FOR JURY TRIAL

13
14 Plaintiff hereby demands a jury trial.

15 Dated: 1-16-14

16 Respectfully Submitted

17 Lenzo Seamster

18 By: Lenzo Seamster

19 Lenzo Seamster

20 Pro se

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LENZO SEAMSTER H-64914		CSP-Sacramento 41st building PO Box 290066 REPRESENT, CA 95671
TELEPHONE NO.:	FAX NO.:	
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE		
MAILING ADDRESS:		
CITY AND ZIP CODE: SAN FRANCISCO, CALIFORNIA 94102		
BRANCH NAME: UNITED STATES DISTRICT COURT, NORTHERN DISTRICT		
CASE NAME: Seamster v. Baptista		
CIVIL CASE COVER SHEET		
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER:		
JUDGE:		
DEPT:		

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify):

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

Lenzo Seamster

(TYPE OR PRINT NAME)

Lenzo Seamster

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**PROOF OF SERVICE
(C.C.P §2015.5, 28 U.S.C. 1745)**

I, Lenzo Seamster, am over the age of eighteen (18) years of age, and I (am) (am not) a party to the within cause of action. My address is:

Lenzo Seamster A-64914
CSP-Sacramento, AI-208
Po Box 290066
Represa, CA 95671

On, _____, _____, I served the following documents:

1. Act 42 U.S.C. § 1983 "nd" SUMMONS IN A CIVIL ACTION
2. PRISONER'S APPLICATION TO PROCEED IN FORMA PAUPERIS
3. CERTIFICATE OF FUNDS IN PRISONER'S ACCOUNT
4. MOTION FOR APPOINTMENT OF COUNSEL
5. CIVIL CASE COVER SHEET

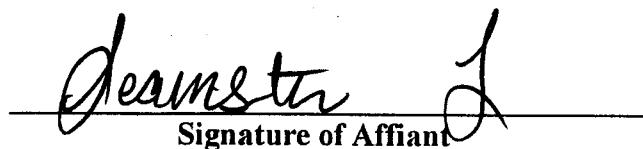
on the below named individuals by depositing true and correct copies thereof in the United States mail in Represa, California, with postage prepaid thereon, addressed as follows:

1. UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF
CALIFORNIA
450 GOLDEN GATE AVE
SAN FRANCISCO, CA.
94102

2. _____

I have read the above statements and declare under the penalty of perjury of the laws of the state of California that he forging is true and correct.

Executed this 31 day of January, 2014, at California State Prison-Sacramento, Represa California.


Signature of Affiant